

**Meeting Minutes for E. coli Rulemaking Workgroup
September 25, 2003, 1:30 p.m. to 3:30 p.m.
Tippecanoe County Extension Office**

Attendees included:

Mary Ellen Gray, Dennis Clark, Chad Frahm, Dan Olson, Tom Ungar, Richard Van Frank, George Zukous, Robin Feller, Paul Werderitch, Lynn Newvine, Roseann Hirschinger, Bill Harkins, Catherine Hess, and Kiran Verma. Holly Wirick, U.S. EPA was not able to participate via conference call due to a conflict.

Approval of Workgroup Meeting Minutes of August 26, 2003:

Mary Ellen asked the group whether there were any revisions or corrections to be made to the draft minutes of August 26, 2003. Dick Van Frank commented that he did not think any agreement had been made regarding Class 1(a) and 1(b) during the meeting, and that the minutes needed to reflect that. Tom Ungar had a couple of suggestions on clarifying the issue regarding Class 1b. These suggestions were noted and incorporated into the final minutes as approved.

As a side note Tom Ungar suggested it would be good for IDEM to do the presentation on the federal section 205(j) grant from the last Triennial review meeting for the E. coli workgroup.

Update on First Notice:

Mary Ellen updated the group regarding the first notice. She explained that IDEM was working on summarizing the comments. A question was raised whether the comment summary would be distributed to the group. Mary Ellen replied that it would be distributed if that was what the workgroup wished. A second question was raised about the possible timing of the second notice. Mary Ellen indicated that the goal was for the second notice to be printed in December or January, Indiana Register.

Full Body Contact Designation Discussion:

Regarding the full body contact designation issue, Mary Ellen indicated that the intention of this Agenda item was to go over the full body contact issues and see where we are at the end of the meeting. We also reviewed and discussed E. coli sample data from several waterbodies which might be useful to help determine E. coli concentrations which might represent wildlife background. These values might be useful to help determine and justify secondary contact recreation criteria as prior discussions had indicated that there was no scientific data for criteria for secondary contact recreation and the group wants to use some logic on how to come up with criteria. IDEM had been tasked with one proposed way to look at what the background level is for E. coli with regards to wildlife. IDEM staff used data from some streams which were to the best of their knowledge, only impacted by wildlife. A comment was made that 82nd Street data should not be used as the numbers are higher there and did reflect human influences. IDEM agreed that these data were presented only for comparison purposes. Dick Van Frank asked about the Fall Creek data that he had requested IDEM to look at. Denny responded that IDEM did have

the data but not in a readily useable form nor was there flow data available for these. Dick Van Frank inquired about the meaning of the phrase “not impacted by human input”. Mary Ellen explained that the term includes areas that do not have known septs, known CAFOs and known CSOs. Denny explained that IDEM did not have much to pick from and that the data they picked was from areas that were the best examples of least human impact. Roseann Hirschinger reiterated that the data represented the best data set that includes historical data of areas that are not impacted by CSOs, WWTP, and CAFOs. She explained that E. coli also comes from run-off and also is in the soil.

Denny continued the discussion on the data sheets showing examples of E. coli data. He explained that what the data show is that most of the high numbers occur during high flow, but on the whole the numbers are not high and in most waters under 50% flow, E. coli numbers are lower than the criteria. Dick Van Frank questioned the explanation. Denny pointed out that he was not saying that there is no input from livestock. Dick Van Frank also wanted to see the data on watersheds and would like to see water bodies that aren't impacted by human activity. Denny explained that IDEM was trying to find and justify a criteria for secondary contact recreation based on what kinds of things occur naturally in a stream (i.e. absent raw sewage, CSO's, faulty septic etc.), and that we are trying to establish a number that reflects natural run-off. Roseanne Hirschinger explained that is what the data reflects in the examples. Dick Van Frank did not agree with the approach and believes that we cannot conclude anything with such data. Mary Ellen explained that we were not trying to conclude anything except to look at information that might help us provide a logical approach to establishing secondary contact recreation criteria. Denny added that the data fairly well represents background sources, for example, the Kankakee River does not have CSOs.

It was discussed whether we should go with narrative standard or do we want to go with a number. Chad Frahm wondered whether we should just go with narrative criteria. Denny felt that EPA would require a number to implement the narrative criteria anyway. Tom Ungar suggested having a secondary classification of 14 illnesses per thousand. Jim Meyer asked the question as to what are we trying to protect and that he was having trouble with how background tied in with protecting the use, and whether we were tying it to risk. Denny explained that natural background numbers are what one is exposed to in wading boating etc. Dan Olson suggested another approach of not to have a secondary designation but have a primary contact classification (c) and maybe apply 14 illnesses and 95% confidence level and tie it into primary contact recreation. He felt we needed to deal with wet weather issues. He also indicated that he does not like the approach of establishing a number based on the background. Denny explained that secondary contact designation is for waters where full immersion is not likely to occur. All Indiana streams are already designated primary contact. For them to change their designation, a UAA has to be done.

Dick Van Frank cautioned that we cannot change or degrade the use of a stream, yet under wet weather conditions, the standard cannot be met no matter what action one takes. Mary Ellen explained that we are trying to come up with a reasonable approach for establishing secondary use designation criteria. She indicated, as had been discussed

before, that there would be a separate group to deal with wet weather. She stressed that IDEM would like input on wet weather issues through a workgroup. Dick Van Frank recommended that this group be the one to deal with wet weather. Denny explained that the main benefit of having a secondary contact use designation is that a lot of streams might meet that number. Roseann Hirschinger felt that it might be of some value to have secondary use criteria in order for a UAA to have a designated use available to change to. Jim Meyer didn't agree with this and indicated that there are other designated uses such as industrial use. Dan Olson stated all waters are recreational and primary use.

Mary Ellen stated that the group needs to come to closure on secondary use designation criteria. Dan Olson suggested that it would probably be best for the agency to contact EPA to see if EPA is amenable to three classes of primary contact designation, with the 3rd classification being 14 illnesses per thousand, without having a UAA. A discussion followed on narrative standards. Dick Van Frank questioned whether a narrative standard would have a number attached. Dan Olson felt that a narrative standard would not have a number in the rule but a number may be placed in a nonrule policy document. Denny pointed out that EPA would like to have a number and would likely request it to be in the rule. Roseann Hirschinger pointed out that we would need to have a number to base assessments on. Lynne Newvine suggested checking with EPA whether it requires a UAA. George Zukous from the Clean Streams Team pointed out that 31 states have secondary standards and that EPA made the primary standard as the default.

Mary Ellen introduced the summary of EPA's draft guidance, which Dave Kallander had prepared. Denny Clark went over the highlights of the summary. He explained that although EPA believes there is a lack of information necessary to develop risk-based secondary contact recreation criteria, they want states to set numeric criteria to protect secondary contact uses. **(Continued below)**

ORSANCO update:

Denny Clark gave a brief update on the ORSANCO meeting he had attended. He informed the group that he had met with several states, three EPA regions and EPA Headquarters. He reported that no state had a good idea about dealing with wet weather. He stated that the people at the meeting were considering not focusing on developing a wet weather standard but rather on how to implement existing E. coli criteria during a wet weather situation.

Full Body Contact Designation - Continued:

Mary Ellen came to closure on this part of the discussion with the pursuing two options. One is the option of establishing a category 1(c) under primary contact of 14 illnesses per 1000, at 95% confidence level, single sample. The other would be to establish secondary use criteria of 14 illnesses per 1000, at 95% confidence level, single sample. She indicated that IDEM would run this by EPA to get their thoughts on this. Dan Olson asked where the number five times comes from in the summary where it says EPA suggests adopting a criterion that is 5 times that of the geometric mean component of the criterion adopted to protect primary contact recreation.

Denny Clark went over the document on E. coli criteria showing different risk level options we could propose and their potential pros and cons. Dick Van Frank had a question regarding parks and sensitive areas. Denny agreed we would look at and add such areas to the list. To make a change in the criteria either going from the 8/1000 to 10/1000 risk level or visa versa, that it would be a rulemaking which would have to go through the WPCB. Dick Van Frank had a problem with having to go through the WPCB in that he thought that would put too much work load on the public and asked about submission requirements. Mary Ellen explained that since this process would involve changing a criteria, it would need to be a rulemaking. She explained that examples of submission requirements were in the draft. Dick Van Frank stated that he was not comfortable with what IDEM had listed on the submission requirements. Denny Clark explained that entities would not have to do an UAA, but rather a rulemaking to change the criteria that would apply. Dan Olson cautioned that there might be a problem of perception of the agency going from an 8 standard to a 10 and that it might be easier to show the WPCB that the entity was going from a 10 level to an 8. Tom Ungar felt that we have to show which waters are swimmable or not. Dave Kallander brought up Dick Van Frank's point being a good one as it pertained to resources. A discussion followed on sampling analysis and resources that would be needed. Lynn Newvine brought up the point that proving its use one way or the other may not need additional monitoring. Dick Van Frank was concerned about the undue hardship on the public of participating in the process where 10 was the default. Lynn Newvine suggested that the group evaluate the discussion and send their comments on the document to IDEM on: who is going to designate the water, and the undue burden on the public.

Next Meeting:

The next scheduled meeting was on October 15, 2003, which had a conflict. Therefore, a new date of October 23rd was picked and agreed upon for the workgroup meeting.